

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Richard Stogsdill, Nancy Stogsdill, Mother of
Richard Stogsdill, Robert Levin, and Mary Self,
Mother of Robert Levin,

C/A No. 3:12-cv-00007-JFA

Plaintiffs,

vs.

ORDER

Anthony Keck and the South Carolina
Department of Health and Human Services,

Defendants.

This matter comes before the Court on Defendant South Carolina Department of Health and Human Services' ("SCDHHS") motion to strike Plaintiff Robert Levin's ("Levin") jury demand. (ECF No. 143). SCDHHS has moved for an Order striking the jury demand in this case pursuant to Fed. R. Civ. P. 39(a)(2), which provides that all issues upon which a jury trial have been demanded must be tried by a jury, unless "the court, on motion or its own, finds that on some or all of those issues there is no federal right to a jury trial."

Levin's three remaining causes of action seek only prospective declaratory relief and injunctive relief, not monetary damages.¹ Such equitable claims are not the kind contemplated by the Seventh Amendment as preserved for a jury. As the Supreme Court has aptly stated, "The Seventh Amendment provides: 'In Suits at common law, where the value in controversy shall exceed

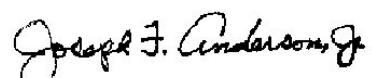
¹ Levin's Complaint is entitled, "Second Amended Complaint for Injunctive Relief." (ECF No. 72).

twenty dollars, the right of trial by jury shall be preserved . . .’ We have consistently interpreted the phrase ‘Suits at common law’ to refer to ‘suits in which *legal* rights were to be ascertained and determined, in contradistinction to those where equitable rights alone were recognized, and equitable remedies were administered.” *Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33, 40-41, (1989) (citing *Parsons v. Bedford*, 3 Pet. 433, 447, 7 L.Ed. 732 (1830)) (emphasis in original). Accordingly, because all of Levin’s claims sound in equity, he is not entitled to a jury trial.

Therefore, the Court hereby **GRANTS** SCDHHS’s motion, and Levin’s jury demand is stricken. This case will be tried via a bench trial beginning Monday, January 12, 2015.

IT IS SO ORDERED.

December 16, 2014
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge